JULY-AUGUST 1986

TWENTY-SIXTH YEAR — No. 253

international review of the red cross

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INTERNATIONAL REVIEW OF THE RED CROSS

ISSN 0020-8604

JULY-AUGUST 1986 — No. 253

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International Review of the Red Cross has been published, in French, under various titles, by the International Committee of the Red Cross (ICRC) since 1869. Its first complete edition in English was issued in 1961.

— As the official organ of the ICRC and the International Red Cross,
— specializing in international humanitarian law and ICRC doctrine,
— recording the international activities of the Red Cross, mainly for reference purpose, as a chronicle of events,

International Review of the Red Cross provides a constant flow of information and maintains the necessary link between the members of the International Red Cross.

International Review of the Red Cross appears once every two months in three languages :

in English: INTERNATIONAL REVIEW OF THE RED CROSS (from 1961)

in French: REVUE INTERNATIONALE DE LA CROIX-ROUGE

in Spanish: REVISTA INTERNACIONAL DE LA CRUZ ROJA (from 1976)

It also publishes, in German, a short edition, *Extracts*, of various articles which appear in the main editions.

EDITOR-IN-CHIEF: Jacques Meurant

ADDRESS: International Review of the Red Cross
17, avenue de la Paix
CH - 1202 - Geneva, Switzerland

SUBSCRIPTIONS: one year, Sw. frs. 30.—; single copy Sw. frs. 5.—.
Extracts in German: one year, Sw. frs. 10.—; single copy Sw. frs. 2.—.

Postal Cheque Account: No. 12 - 1767 Geneva

Bank account No. 129.986 Swiss Bank Corporation, Geneva

The implementation of international humanitarian law at the national level

Issues in the protection of the wounded and sick

by Dr. Michael Bothe and Karin Janssen *

1. INTRODUCTION

The Protocols additional to the Geneva Conventions, adopted in 1977, broaden the protection afforded by international law to wounded, sick and shipwrecked members of armed forces and to medical personnel, medical units and military medical transports in certain circumstances. Their main purpose, however, is to extend to civilians, civilian medical personnel etc. the protection which hitherto was enjoyed only by military personnel. Thanks to the Additional Protocols, military personnel and civilians today enjoy equal protection.

The following text is intended:

— first, to summarize the provisions of the Conventions and the Protocols relating to the protection of the wounded and sick and,

— second, to examine what measures should be taken at the national level to ensure the effective implementation of these rules.

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The principal question which arises is that of the types of national measures necessary to ensure the application of the rules pertaining to protection in the Conventions and the two Additional Protocols.

2. RULES FOR THE PROTECTION OF PERSONS

Each of the four Geneva Conventions and two Additional Protocols requires that the victims of an armed conflict (sometimes all of the victims, sometimes certain categories of protected persons) be treated humanely in all circumstances. Some of the rules in the Conventions and Protocols are more precise than the general obligation referred to above. The most important requires that all wounded, sick and shipwrecked persons should be respected and protected and that they should "receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition". This rule constitutes the basic principle for the protection of medical personnel, units and transports which we will examine below.

Meeting this general obligation to ensure the protection of the wounded and sick means allocating funds for the establishment of the necessary medical services (military and/or civilian) and the training of personnel. These tasks cannot be accomplished through improvisation once armed conflict has broken out. Preparations must be made in peacetime, especially in the allocation of financial resources.

These preparations, financial and otherwise, are the duty of *all* the States party to the Conventions and Protocols (and must be carried out in peacetime) in accordance with Protocol I, Article 80, paragraph 1. As an example for other States, the documents prepared in Switzerland and Sweden on the occasion of the Protocols' ratification may be cited (in Switzerland, the "Message" submitting the Protocols to the Federal Council, in Sweden, the very detailed report by a commission of experts). These two documents carefully examine the financial consequences of adequately preparing the implementation of the Protocols.

Certain closely related provisions are worthy of attention in that they are the object of peacetime national directives. Let us take, for example, Protocol 1, Article 11, dealing with the protection of persons.

Whereas paragraphs 1 and 2 restate traditional principles, the provisions concerning the removal of tissue (in particular blood)

and the donation of organs represent something new. The procedures prescribed there should be meticulously transformed into government regulations on a national scale. This applies particularly to the keeping of medical records prescribed in paragraph 6. One cannot expect these records to be improvised on the battlefield or even in field hospitals behind the lines. The application of such a provision must be well prepared through detailed administrative regulations.

3. THE PROTECTION OF MEDICAL SERVICES

The protection of medical units (including personnel and transports) presents two separate aspects: protection against attack and protection of the exercise of their medical activities.

1. **Protection against attack**

Whereas there is a provision expressly prohibiting attacks on military medical units, the prohibition of attacks on civilian military units derives from the principle that civilians should not be the object of attack, a principle which has long served as law and is today set out in Protocol I, Article 51.

However, a glance at Article 51 is enough to indicate that its prohibition of attacks on the civilian population does not prevent the latter, in all circumstances, from being affected by attacks on military objectives. In other words, there is no absolute protection against indirect or incidental damage, that is, extensive damage caused by attacks on military objectives. An attack is illegal if foreseeable civilian losses are "excessive in relation to the concrete and direct military advantage anticipated" (the proportionality principle). The extent to which the proportionality principle prevents indirect damage depends on the assessment of, on the one hand, the military advantage to be gained and, on the other, the damage that can be foreseen to the civilian population.

Nowhere do the Protocols or the Conventions expressly state that the proportionality principle also applies to medical units, personnel and transports. Nevertheless, certain provisions can only be explained by recognition of the fact that medical units are perfectly able to be affected by attack (see, for example, Protocol I, Article 12, par. 4, final sentence). If medical and civil-defence units are included in the assessment of military advantage and losses to medical services, their special importance for victims of the con-

flicts as well as their protected status must be taken into account.

In order to reduce incidental damage to a minimum, the parties to the conflict should ensure, in accordance with Protocol I, Article 12, that medical units are so sited that attacks against military objectives do not imperil their safety. This obligation to take precautions against incidental damage applies analogously to the protection of the civilian population: the civilian population must, as far as possible, be removed from the vicinity of military objectives. In addition, locating military objectives within or near densely populated areas must be avoided (Prot. I, Art. 58).

It is understood that taking precautions against the effects of attacks in order to avoid incidental harm to the civilian population and civilian objects, although technically applicable only in times of armed conflict, implies certain measures which must already be taken in peacetime. It would be surprising or even absurd if States were to be authorized to take, in peacetime, measures which would render them incapable of meeting their obligations in wartime. It is also understood that Article 58 adds to the stringency of Article 18, par. 5 of the Fourth Convention, in which it is merely "recommended" that civilian hospitals "be situated as far as possible from (military) objectives". To take an example, if decisions concerning the siting of fixed military installations, on the one hand, and medical establishments such as hospitals, on the other, are taken in peacetime, the obligation of separating them in wartime must be taken into account when the decision is made. If they are set up near to one another it will be impossible to separate them once war breaks out. As far as the subject of our paper (methods of application at the national level) is concerned, this would essentially involve national legislation with regard to zoning and urban and rural planning.

There is a zoning law in the Federal Republic of Germany (*Bundesbaugesetz*) which should be interpreted as prescribing that due allowance be made for the constraints imposed by international humanitarian law.

2. Protection of the work performed by medical and humanitarian personnel

The obligation of protecting the functioning of medical and civil-defence units, which applies equally to the units of friend and foe, is formulated in various ways by the relevant provisions of the

Conventions and Protocols. As we have seen, the basic provisions are those requiring that medical personnel, units and transports should be "protected" (Prot. I, Art. 12, 15 and 21; First Conv., Art. 19, 24 and 35; Second Conv., Art. 22; Fourth Conv., Art. 20 and 21). The United States and British military manuals both state that in order to protect the services performed by these entities (personnel, units and transport), they must not be prevented, unless absolutely necessary, from fulfilling their proper functions.

In occupied territories, one particular aspect of this obligation not to prevent medical units and civil defence organizations from performing their tasks is the severe restriction on the Occupying Power's authority to requisition these units or the buildings and *matériel* belonging to or used by civil defence organizations (Prot. I, Art. 15 and 63; Fourth Conv., Art. 57). In addition, the Occupying Power may not hinder the activities of the National Red Cross or Red Crescent Society of the occupied country (Fourth Conv., Art. 63) nor those of other voluntary relief societies or organizations of a non-military character established for the purpose of ensuring the living conditions of the civilian population by the maintenance of the essential public utility services, by the distribution of relief and by the organization of rescues (Fourth Conv., Art. 63, par. 2). This last obligation is expanded and developed by Protocol I, Art. 63, par. 1. The Occupying Power may not force the personnel of civil defence organizations to carry out activities which could interfere with the efficient performance of their mission. Neither may the Occupying Power change the structure or personnel of such organizations in any way which might jeopardize the efficient performance of their mission.

All of these prohibitions may be described as negative obligations which impose the duty not to interfere with the activities of organizations lending assistance to the wounded and sick and performing civil defence functions. But this is not all: there is also the positive obligation to provide assistance. Protocol I, Art. 15 states this obligation as it relates to civilian medical personnel : "If needed, all available help shall be afforded to civilian medical personnel in an area where civilian medical services are disrupted by reason of combat activity". The Occupying Power is also required to lend assistance to civilian medical personnel to allow them to perform their humanitarian function. It must also provide civil defence organizations with the facilities necessary for the performance of their tasks (Prot. I, Art. 63). Moreover, the general obligation to provide the population with the necessary food and

medical supplies may be construed as an obligation to provide facilities to existing relief societies.

With regard to Red Cross and Red Crescent organizations, special obligations are imposed on States by Protocol I, Art. 81. Paragraphs 2 and 3 of this Article are of particular importance to national Red Cross and Red Crescent organizations. It will be noted that the Article assumes that such an organization exists within each State party to the Conventions. However, there are more than 20 States party to the Conventions in which there are no recognized National Societies. The difficulties in applying the Conventions and Protocols which could result cannot be examined here. "The Parties to the conflict shall grant to their respective Red Cross (and Red Crescent) organizations", where they exist, "the facilities necessary for carrying out their humanitarian activities in favour of the victims of the conflict". This provision applies to the relationship between the State and the Red Cross or Red Crescent Society within it. Though applicable in times of armed conflict, it should be observed that the granting of such facilities requires preparation in peacetime.

Paragraph 3 of the same Article applies both in times of peace and armed conflict as it concerns "the High Contracting Parties and the Parties to the conflict". They "shall facilitate in every possible way the assistance which Red Cross (or Red Crescent) organizations and the League of Red Cross Societies extend to the victims of conflicts ...". This provision is thus also addressed to States which are not themselves engaged in an armed conflict.

This obligation, to extend assistance to Red Cross and Red Crescent organizations, applies to activities carried out "in accordance with the provisions of the Conventions and (Protocol I) and with the fundamental principles of the Red Cross as formulated by the International Conferences of the Red Cross". The fundamental principles include impartiality, neutrality and independence. We will come back to this subject. At this stage, it should be emphasized that all of these matters are affected by questions of application at the national level: support for the National Society and legislation and/or administrative regulations to define and guarantee its functions in accordance with applicable norms.

4. CONDITIONS FOR PROTECTION

Protection of medical personnel and members of civil defence organizations is not accorded to every person who performs tasks

in the two fields in question. The definitions provided in Protocol I, Art. 8 and 12 mean that certain acts by the State (recognition, authorization and assignment) and verification by the authorities constitute prerequisites for the right to protection.

Protected "medical personnel" means persons *assigned* by a Party to the conflict exclusively to medical purposes or to the administration of medical units.

In particular, this personnel includes:

— the medical personnel of a Party to the conflict, whether military or civilian;
— the medical personnel of National Red Cross and Red Crescent Societies and other national voluntary aid societies duly *recognized* and *authorized* by a Party to the conflict;
— the medical personnel of medical units or medical transports *made available* by a third Party (Art. 8, par. c).

The protection of medical units (Prot. I, Art. 12) applies to units which:

— belong to one of the Parties to the conflict;
— are *recognized* and *authorized* by the competent authority of one of the Parties to the conflict; or
— are *authorized* by a third Party in certain circumstances (Prot. I, Art. 9, par. 2; First Conv., Art. 27) which means, among other things, that they must be placed *under the control* of a Party to the conflict.

In addition, civilian hospitals must be in possession of a certificate provided by the State showing that they are civilian hospitals (Fourth Conv., Art. 18, par. 2).

Protected "civil defence organizations" are those establishments and other units which are *organized* or *authorized* by the competent authorities of a Party to the conflict to perform civil defence tasks and which are *assigned* and *devoted* exclusively to such tasks (Prot. I, Art. 61).

Protected "medical transports" are means of transportation *assigned* exclusively to medical transportation and *under the control* of a competent authority of a Party to the conflict (Art. 8, par. g). Thus, the protection is conditional upon the medical or civil-defence activity being sanctioned by, or at least based on, an act of State.

The reason why no particular act of State is necessary for assigning the staff of Red Cross and Red Crescent National So-

cieties to medical activities is that these organizations have already been authorized and recognized by the State. Thus, protection of the medical staff of National Societies is also related to an act of State.

As for civilian units, each must be *recognized* and *authorized* (Art. 12, par. 2(b)). However, this rule does not exclude the possibility of authorizing units *en masse*; it is perfectly possible for a State to authorize the National Society to form medical units.

The necessary "assignment" of medical transports to medical tasks can also be delegated by the State to the National Red Cross or Red Crescent Society and to voluntary relief societies. It would not be reasonable to have to grant special administrative authorization to each individual Red Cross or Red Crescent ambulance for it to enjoy the status of protected unit. Medical transports must nevertheless be under the control of a competent authority of a Party to the conflict. The obvious reason for this rule is that the protected status of medical vehicles and aircraft can be abused on the battlefield, and verification by the State of such vehicles' movements becomes necessary (as a result, the State also assumes responsibility for the way in which they are used). In addition, it can happen that, in the course of heavy fighting, communications are disrupted. In such cases, it can be desirable for small units to operate independently. To preserve the independence of National Societies, the necessary control by the State can and must be exercised in conjunction with the National Societies.

The legal conditions for acquiring the protected status described above make it essential to have certain means of implementing international humanitarian law at a national level. We have just seen that there can be no protection unless certain steps are taken by the State. These steps cannot be improvised in wartime, especially as the system is somewhat complicated. They must be the object of serious preparation in peacetime. Two things must be done in order to ensure that appropriate measures are taken in good time.

In view of these difficulties, the movement of medical transports in times of armed conflict must be effectively controlled and verified by a person whose powers are conferred by an act of State. Without this, the transports are not protected because they are not "under the control" of a Party to the conflict. It could be said that this constitutes a certain restriction on the independence of the National Societies, but it is a restriction expressly provided for in the Conventions and Protocols.

Legislative and administrative regulations must be created to determine, above all, which authorities are to grant authorizations and assign medical units etc., which organizations and persons may receive those authorizations and which authorities are to exercise the necessary control etc. For example, in the Federal Republic of Germany, the Federal Ministry of Youth, Family Affairs and Health has put out "Directives for the Application of Articles 18 to 20 of the Fourth Geneva Convention" dealing with the details for recognition of the protected status of civilian hospitals, including the right to use the protective emblem and the document which we have already discussed. In addition, several *Länder* in the Federal Republic have created administrative regulations of a similar kind since it is *their* administrations and *their* authorities which will be responsible for the necessary formalities. These regulations are simple administrative directives and are not binding on every citizen. It should be pointed out, however, that, at least for some of the government measures which we are examining, legislative authorization would be appropriate if not, as in certain countries, required by the Constitution.

The conditions for protection are somewhat complicated and the second necessary preparatory measure results from this complexity. That is why those involved should be well informed about all these questions. If appropriate steps were taken, the subject would become less complex. For example, the German Red Cross in the Federal Republic of Germany has drawn up a sort of checklist for hospital administrations, which sets out in details everything concerning the protection of hospitals.

5. IDENTIFICATION

It is essential for medical personnel, units and transports that they be clearly identifiable as such. To this end, the Conventions and Protocol I, Art. 18 contain provisions for the use of the distinctive emblem and distinctive signals. The latter are particularly important for medical aircraft. Annex I to Protocol I contains detailed regulations concerning identification.

The use of the distinctive emblem and distinctive signals is also to some extent controlled by the State. Article 39 of the First Convention states that the emblem must be displayed "under the direction of the competent military authority". Civilian hospitals, according to the provisions of Article 18 of the Fourth Convention,

may be marked by means of the emblem "only if so authorized by the State".

In accordance with the provisions of Protocol I, Art. 18, par. 4, medical units and transports should be marked by the distinctive emblem "with the consent of the competent authority".

Another means of identifying medical personnel is the identity card, which should be issued by a competent authority (Annex I, Art. 1, par. 1(g)).

Identification, like protection, requires a legislative act. Here too, regulations at a national level are essential for ensuring that the competent authorities take the necessary steps. This can be called the legislative aspect of implementation on a national scale. In addition, there is an aspect involving physical or material preparation. Marking equipment must be manufactured and stocked, paint distributed, armbands prepared and identity cards held in reserve. These preparations cannot suddenly be made when a conflict breaks out; they must be made in peacetime. They involve considerable cost. This is one concern which was expressed by developing countries at the Diplomatic Conference. Adequate marking and other means of identification—and their preparation—are costly, but not excessively so. The members of Commission II of the Diplomatic Conference still remember the Mongolian delegate who strongly protested that the provisions were too strict concerning material resources and were therefore suitable only for the industrialized countries. This is certainly an exaggeration, at least where the less complicated means of identification are concerned (identity cards, armbands, smocks, painted red crosses or red crescents). The cost aspect is, however, important and the States should give it serious thought.

Thus far we have been discussing one of the two possible uses of the red cross or the red crescent: protection. However, the red cross or the red crescent can also be used by National Red Cross and Red Crescent Societies purely for identification purposes, even when they are carrying out activities other than medical activities protected by the Conventions and Protocols. Under the First Conv., Art. 44, par. 2, this indicatory use of the emblem must be based on "national legislation". Here again, it is a matter of taking measures for implementation at a national level.

One essential aspect of regulating the use of the red cross (or red crescent) is the exclusive character of the emblem—it must not be used for purposes other than those authorized by the Conventions and Protocols. Enforcing this prohibition of illegal use and misuse

of the emblem is also a matter for national legislation. The provisions of the First Conv., Art. 54, and the Second Conv., Art. 45, require States to repress illegal use of the distinctive emblem through national legislation. This obligation applies both to the indicatory and protective use of the emblem. Prot. I, Art, 38 also prohibits the improper use of the distinctive signs and signals.

The "perfidious" use of the distinctive signs and signals, as defined in Prot. I, Art. 37, and the acts described in Art. 85, par. 3, constitutes a "grave breach" which must be punished by the State party to the Conventions in accordance with the provisions of the First Conv., Art. 49 (and the second, Third and the Fourth Conventions, Art. 50, 129 and 146 respectively). This is probably the States' main legislative obligation concerning the use of the distinctive signs and signals.

6. FINAL REMARKS

A summary of the foregoing should first stress that a large number of measures must be taken by the State in the area of domestic law in order to ensure the effective implementation of the Geneva Conventions and the two Additional Protocols. Assignment, authorization, recognition and verification—the prerequistites for protection—must be provided for by law, whether legislative or administrative. Steps should be taken to ensure that the necessary authorizations are issued and orders given. Under certain types of constitution, a law for the implementation of the Conventions and Protocols is necessary, or at least useful. National legislation is also necessary to repress misuse of the red cross or the red crescent.

Second, a certain number of practical and organizational measures must be taken if the protection is to be effective. For example, the necessary identity cards must be issued or prepared, marking equipment stocked etc. National parliaments must take part in these tasks, if only by making budgetary provision for the funds necessary to carry them out.

National authorities thus have wide-ranging duties in the creation of the proper conditions for implementing the Geneva Conventions and the Additional Protocols relating to the protection of the wounded and sick.

Michael Bothe and Karin Janssen

Prohibition of terrorist acts in international humanitarian law *

by Hans-Peter Gasser

This paper deals with the provisions of contemporary international humanitarian law which prohibit "terrorist acts", commonly referred to, simply, as "terrorism".

Since the paper is mainly of a descriptive nature, experts in international humanitarian law will learn little that is new. But if it succeeds in highlighting one specific aspect of the well-known obligations and prohibitions set forth in the Geneva Conventions and their Additional Protocols—namely, the absolute and unconditional ban on terrorism—the objective will be attained. A few basic facts will then have been recalled which should make it somewhat easier to tackle the complex questions as to the essence and legal bounds of guerrilla warfare.

First of all, it is necessary to clarify once more the meaning of various terms—particularly because the discussions about the ratification of the Additional Protocols of 1977 have of late produced some strange pronouncements, such as: "Rights for terrorists—a 1977 treaty would grant them", "Law in the service of terrorism", "Protocol I as a charter for terrorism". One wonders whether the world is suddenly upside down.

Terminology

As already indicated, the purpose of this paper is to discuss the provisions of *international humanitarian law* which address the

* This paper was presented at the 11th Round Table on Current Problems of International Humanitarian Law, San Remo (9-14 September 1985). A slightly adapted version has been published, in German, in "Völkerrecht im Dienste des Menschen", Festgabe Hans Haug, ed. Haupt, Bern and Stuttgart, 1986.

challenge of terrorism. It is therefore clear from the start that the analysis is restricted to situations of armed conflict, since only then does international humanitarian law become applicable. The term "armed conflict" as defined in international law covers any conflict, between states or within a state, which is characterized by open violence and action by armed forces.

International or internal situations which do not bear the essential characteristics of armed conflict, although marked by collective violence, consequently do not come within the range of this analysis—in particular, situations of internal strife, riots and violent repression, which are not covered by the humanitarian law instruments.

Defining the matter under consideration is of great importance, since it should be clearly understood that only terrorist acts committed in situations of armed conflict fall within the scope of application of international humanitarian law. Terrorism in "peacetime", that is, in situations which cannot be classified as armed conflicts, is not covered by international humanitarian law which, in such situations, is quite simply not applicable.

The second term which calls for explanation is *"terrorism"*.

Terrorism is a social phenomenon with far too many variables to permit a simple and practical definition. There seems to be no consensus among legal authors and other experts on its meaning and consequences. Even international law has failed to expressly define terrorism and terrorist acts. A glance at the only attempt to formulate an explicit definition having international legal authority may illustrate the difficulties involved. The Convention for the Prevention and Punishment of Terrorism (Geneva, 1937) indeed defines "acts of terrorism" as "criminal acts directed against a State or intended to create a state of terror in the minds of particular persons, or a group of persons or the general public". In our era, to restrict the definition of terrorism to offences against a State would quite obviously overlook the realities of contemporary life.

The various international conventions adopted over the last 25 years are all limited to some specific aspect of terrorism and therefore they are of no help in a search for a comprehensive definition. They are, in chronological order:

— Convention on Offences and Certain Other Acts Committed on Board Aircraft, Tokyo, 1963;

— Convention for the Suppression of Unlawful Seizure of Aircraft (Hijacking), The Hague, 1970;

— Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Sabotage), Montreal, 1971;
— Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons Including Diplomatic Agents 1973;
— International Convention against the Taking of Hostages, 1979; and
— Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984.

This paper will not attempt to give a new and comprehensive definition. It would be superfluous anyway, as the everyday usage of the term is sufficient for our purposes.

It seems that the term "terrorism" in everyday language covers the following aspects:

— without exception, terrorism is a crime;
— terrorism is the use or threatened use of violence, usually against human life;
— terrorism is a means to attain political goals which, in the view of those resorting to it, could not be attained by ordinary (lawful) means;
— terrorism is a strategy: it is usually brought to bear over a period of time by organized groups according to a set programme;
— terrorist acts are often directed at outsiders who have no direct influence on or connection with what the terrorists seek to achieve; terrorists often hit indiscriminately at their victims;
— terrorism is used to create fear which alone makes it possible to attain the goal;
— terrorism is total war: the end justifies *all* means.

These statements are intended to give a general outline of the phenomenon of terrorism. In occasional instances, one or the other element may be lacking; for instance, there may be no political goal whatsoever, or the crime may be perpetrated by an individual acting on his own.

One can presume that terrorist acts are prohibited without exception by internal legislation of all States and are subject to prosecution and punishment under national criminal law. Insofar as they are inspired by political motives, offenders may be granted immunity from extradition as provided for in extradition treaties or domestic legislation. In recent years, however, the trend has been to

exclude terrorist acts from such derogations (for example, see the European Convention on the Suppression of Terrorism, 1977).

Prohibition of terrorist acts in wartime

Terrorist acts committed in wartime have a different legal connotation. Violence—carried to its extreme—is inherent in war; it is also inherent in terrorism. This raises the question of the distinction to be made between two different types of violence: "licit violence" in armed conflicts governed by the laws of war, as opposed to "illicit violence" (which includes terrorism). On what criteria is the distinction based?

The *first criterion* relates to the status of the person committing violence: members of the armed forces of a party to an armed conflict have a right to participate directly in hostilities. No other persons have that right. Should they nevertheless resort to violence, they breach the law. Their deeds may constitute acts of terrorism.

The rule is clear and is not likely to raise any significant problems in international armed conflicts. Difficulties arise in situations of non-international armed conflicts and wars of national liberation. We shall discuss these topics in greater detail further on.

The *second criterion* is derived from the rules governing the protection of specific categories of persons and the rules on methods and means of warfare in armed conflicts: to be licit, the use of violence in warfare must respect the restrictions imposed by the law of war. Consequently, even members of the armed forces legitimately entitled to the use of violence may become terrorists if they violate the laws of war.

Is it necessary to say that, in practice, it is not always easy to make a distinction between terrorist violence and legitimate acts of war?

We have now reached the point where we must examine the existing law applicable in armed conflicts with respect to the prohibition of terrorist acts. The main sources are the four Geneva Conventions of 12 August 1949 relating to the protection of victims of armed conflicts, and their two Additional Protocols of 8 June 1977. Although only approximately one third of the international community has ratified the 1977 Protocols to date (February 1986), for the purpose of this analysis they will nevertheless be deemed to have the force of law for the community of nations.

The fundamental principles of international law recognized in the Charter of the Nuremberg Tribunal (the "Nuremberg Prin-

ciples") must also be taken into consideration, since they too deal with terrorist acts in times of peace and of war and declare them to be international crimes.

Finally, the aforesaid conventions on specific offences, such as the Hostage Convention and the Convention on Hijacking, must also be consulted on particular issues.

Ban on terrorism under the law applicable in international armed conflicts

As already noted, the main body of international humanitarian law applies to *international armed conflicts,* which are hostilities between States. Since 1977—for States party to Protocol I—the term "international armed conflict" also covers "armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist régimes in the exercise of their right of self-determination" (Art. 1, par. 4, Protocol I).

In the interest of clarity, it still is expedient to divide the prohibitions laid down in humanitarian conventions into two categories: (1) rules which restrict methods and means of warfare and (2) rules for the protection of persons in the power of the adversary against arbitrary acts and violence.

As far as the first set of rules is concerned—customarily referred to as the "Law of The Hague"—the innovative Article 51, par. 2, of Protocol I is particularly noteworthy. After a general reminder of the obligation to protect the civilian population against dangers arising from military operations, paragraph 2 stipulates: "The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited". This provision confirms that terrorism is not an authorized method of warfare.

In view of its implications, the scope of the prohibition prescribed in the second paragraph of Article 51 calls for closer examination. The first sentence lays down that attacks against the civilian population as such and against individual civilians are prohibited—a clear and categorical prohibition probably covering most terrorist acts. But then the second sentence goes on to prohibit acts of violence the *primary purpose* of which is to *spread terror among the civilian population.* Such acts must not necessarily be directed against civilians; what matters is the intent to spread

terror among the civilian population. So, finally, even *threats of violence intended to spread terror are prohibited.*

The subjective factor of intent to spread terror among the civilian population is always an indispensable element. The fact that any military operation or indeed any threat of military measures is bound to have a terrorizing effect on unprotected civilians, e.g., military operations against a legitimate objective in the immediate vicinity of a residential area, cannot be eliminated. What is and remains prohibited, however, is the *intentional use of terror as a means of warfare.*

It follows that in international armed conflict, any recourse whatsoever to terrorist methods of warfare is absolutely inadmissible. Furthermore we must not forget that the prohibitions set forth in Article 51 may not be circumvented by means of reprisals. By implication, terrorist attacks against civilians causing death or serious injury are grave breaches under Article 85 of Protocol I and are to be regarded as war crimes.

Beyond all doubt, most victims of terrorist attacks are civilians. Cultural property, however, is also threatened by terrorism for the purposes of blackmail. Article 4 of the Hague Convention of 14 May 1954 for the Protection of Cultural Property in the Event of Armed Conflict prohibits any act of hostility against protected property. But it is doubtful whether the mere threat of destroying such property with the purpose of terrorizing the population is prohibited.

Attacks against other objects for the purpose of spreading terror among civilians are prohibited by special rules. At this stage one need only mention Article 56 of Protocol I which prohibits attacks against works or installations containing dangerous forces (such as dams, dykes and nuclear plants) or Article 53 which protects cultural objects and places of worship.

Civilians are protected by law against terrorist acts. But what about members of the armed forces? Are they similarly protected? The answer is undoubtedly negative because, within recognized limits, terror is a weapon which may be used in combat against the armed forces of the adverse party. Indeed, the common methods of material and psychological warfare include an extremely wide range of activities which would otherwise be considered "terrorist". Yet in this respect, too, the law of war has set certain restrictions. There is, first and foremost, the long-standing legal principle according to which "the right of the Parties to the conflict to choose methods and means of warfare is not unlimited" and "it is prohibited to

employ weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering" (Art. 35, Protocol I).

The practical applications of this general principle include, for example, the prohibition to use poisonous gases, the prohibition of perfidy (Art. 37), the prohibition to refuse to give quarter (Art. 40)—a provision which is particularly relevant to our analysis, since the threat of random murder is a common enough feature of terrorist activity. Even in an armed conflict, members of the armed forces may not be *threatened* in such manner (carrying out the threat would be prohibited anyway, by virtue of the provisions governing the protection of the wounded and prisoners).

After this review of the law directly circumscribing the conduct of military operations, one must examine the legal provisions relative to the protection of individuals in the hands of the adverse party against arbitrary acts and violence. Here we shall briefly examine the various categories of protected persons.

By virtue of the First, Second and Third Geneva Conventions of 1949 members of the armed forces of an adverse party must be respected and protected as soon as they surrender or their resistance is overcome. Any attempts upon their lives, or violence to their persons, are strictly prohibited (First and Second Conventions, Art. 12, par. 2), and they must be protected against acts of violence or intimidation (Third Convention, Art. 13, para. 2). In this context, the restrictions relative to the questioning of prisoners spelt out in the Third Geneva Convention are of paramount importance: "Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to any unpleasant or disadvantageous treatment of any kind" (Art. 17, par. 4). These provisions are tantamount to a comprehensive ban on acts of terrorism against overpowered enemies.

The Fourth Geneva Convention, relative to the protection of civilian persons in time of war, is the only Geneva Convention of 1949 in which the term "terrorism" is explicitly used. Its Article 33, one of the provisions common to the territories of the parties to the conflict and to occupied territories, stipulates that "all measures of intimidation or of terrorism are prohibited". This provision complements the general rule that belligerents shall treat humanely the civilians of the adverse party who are in their power (Art. 27). Thus, no terrorist act can ever be justified.

These general rules are supplemented by special prohibitions; for instance, the taking of hostages is prohibited (Art. 34) and so is

pillage (Art. 33, par. 2). In addition, Article 75 of Protocol I prohibits violence against all persons who are in the power of the adverse party and who are not already protected by some other rules. Thus, Article 75 fills gaps existing in the Geneva Conventions of 1949.

Under certain circumstances the violation of several of the aforementioned provisions governing the protection of the civilian population is a grave breach of the Conventions or of Protocol I and has to be repressed as such. Such acts of terrorism may therefore be *war crimes*. And alleged war criminals have to be brought to trial by the authority in whose power they are, be it a party to the conflict or be it any other State party to the Geneva Conventions or to Protocol I—unless the said authority prefers to extradite the alleged offender to another concerned State Party. This far-reaching obligation to prosecute or to extradite is a particular aspect of the humanitarian law instruments.

To conclude, one can say that civilians in the power of the adverse Party to the conflict are protected against wanton acts of violence by an elaborate set of legal provisions. All these provisions are applicable totally and unconditionally, under any circumstances whatsoever: in particular they may not be circumvented by recourse to reprisals.

Prohibition of terrorist acts in non-international armed conflicts

The provisions of international humanitarian law applicable in internal armed conflicts are far less detailed than those applicable in international conflicts. What is the situation with respect to terrorist acts in civil war?

Any answer to that question must necessarily proceed from Article 3 common to the four Geneva Conventions. However short and succinct the wording may be, it leaves absolutely no doubt as to the fact that, in internal armed conflicts too, terrorist acts of any kind against persons not taking part in the hostilities are absolutely prohibited.

Following the initial general rule that persons not or no longer taking an active part in the hostilities shall be treated humanely, the second paragraph of Article 3 prohibits, *inter alia*, "violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture" and "the taking of hostages". Article 3 of the four Geneva Conventions therefore leaves no latitude for terrorist acts against persons in the power of the adverse Party to the conflict.

Article 4 of Protocol II reaffirms the aforementioned prohibitions and in various respects extends and improves the system of protection. For our purposes the express ban on terrorist acts in par. 2, (d), is particularly interesting. This is the second time that the word "terrorism" appears in a humanitarian treaty. What is entirely new in Protocol II (compared with Article 3 of the Conventions) is the introduction of provisions designed to protect civilians by influencing the very conduct of hostilities. In this respect, Article 13 entitled "Protection of the civilian population" is of paramount importance: paragraph 2 stipulates that "acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited". This provision is identical to the prohibition of terrorist acts in international conflicts enunciated in Article 51, par. 2, of Protocol I.

The implications of this innovative provision in the law governing non-international armed conflicts are portentous. The notion may well have been implied in the general principles—applicable to civil war too—governing methods and means of warfare. What is important, though, is the reaffirmation of this principle by the representatives of the international community and its incorporation into international treaty law. The ban on terrorist activities in internal armed conflicts is henceforth firmly anchored.

The section of the population protected under Article 3 of the Geneva Conventions and Article 4 of Protocol II is very comprehensive, since the law applicable in non-international armed conflicts makes no distinction between various categories of persons (combatants, civilian population, etc.).

Article 13 expressly prohibits terrorist acts against the civilian population. The prohibition of course applies to both sides, that is to governmental and dissident armed forces. Conversely, only little protection is afforded to persons taking part in the hostilities on the government's side (usually members of the armed forces) or on the dissidents' side.

Methods of warfare may be permissible which in peacetime would amount to terrorist acts. Some restrictions may result from general uncodified principles of law. Protocol II merely stipulates that it is prohibited to refuse to give quarter (Art. 4, par. 1, last sentence).

As already observed, terrorist acts are subject to criminal prosecution by the competent state authorities in accordance with national law, though these should avoid prosecuting and convicting

dissidents for terrorism merely on account of their participation in the conflict.

Thus, in non-international armed conflicts too, any terrorist act whatsoever against civilians who take no active part in the hostilities is prohibited.

This outline of the international prohibitions on terrorism which are applicable in internal armed conflicts raises the question as to whom these prohibitions are addressed.

The Geneva Conventions, the 1977 Additional Protocols and, for that matter, international public law in general are primarily addressed to States. States are bound (1) to refrain from resorting to terrorism and (2) to do everything in their power to prevent terrorist acts from being committed by individuals or in territory under their jurisdiction. This puts a direct obligation on the persons who act on behalf of the State, including—and this is particularly important for us—members of the armed forces, of the police and of similar organizations.

International humanitarian law does not put a direct obligation on individuals who do not in some way represent the State. But States are under obligation to enact pertinent domestic legislation to ensure respect for the rules of international public law. The Nuremberg Principles, however, are a different matter: some acts branded as crimes against humanity also definitely constitute acts of terrorism. The prohibitions against committing such acts are addressed to each and every individual.

In non-international conflicts, the approach has to be different, since one party to the conflict does not qualify as a State. But Article 3 and Protocol II nevertheless put a legal obligation on dissidents too: all members of armed groups must heed the ban on terrorism. Commanders of dissident forces are under the obligation to enforce the prohibition and to repress violations by members of their organization, should they occur. Dissidents are liable as a group. Like governmental authorities, dissidents must also take all necessary measures to prosecute and punish terrorist acts which are committed not only by members of their armed forces but also by individuals acting on their own and living in territory under their control. Thus it is clear that in civil war the dissident party too is conclusively bound by the ban on terrorism. This is extremely important, since civil wars are particularly prone to breed terrorist acts.

The special status of wars of national liberation

The legal status granted to wars of national liberation by the First Additional Protocol of 1977 calls for some comments in connection with this analysis. It would seem that the new law is often misunderstood. Some claim that this innovation legitimizes terrorism. That is not so, as will be shown further on. Yet this erroneous conclusion may be traced to a certain extent to some of the terminology used in anti-colonialist rhetoric. In particular, to say that oppressed peoples are allowed to use *any* means to attain independence is liable to be misconstrued. Does it mean that methods and means of combat banned under other circumstances are authorized in wars of national liberation? This question must be answered.

It is not the purpose of this paper to go into a detailed interpretation of what is meant by "armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist régimes in the exercise of their right of self-determination" (Art. 1, par. 4, Protocol I). It is not relevant to this study. What we are interested in are the legal consequences of such conflicts: they remain the same, regardless of the interpretation of the various conditions of application.

If a people is involved in a war of liberation—as defined in the aforementioned article—against "colonial domination and alien occupation and against racist régimes", that conflict, under the new law, qualifies as an international armed conflict. This means that the entire code of international humanitarian law applicable to international conflicts enters into force, along with all its attendant rights and obligations.

The above analysis has established that the law of international armed conflicts is characterized by an elaborate set of prohibitions of terrorist acts. It follows quite clearly that *these prohibitions also apply,* in toto, *to wars of national liberation.* No other conclusion is tenable from a legal point of view. Anyone claiming that, with the adoption of Article 1, par. 4, of Protocol I, the legal instruments for the fight against terrorism have become weaker, has misunderstood the new situation. The new law should be seen rather as an attempt to achieve stricter, humanity-oriented control over wars of national liberation, such wars being, as experience shows, characterized by particularly severe outbreaks of violence.

Article 44: a licence for terrorism?

Article 44 of Protocol I lays down new conditions for combatant status in international armed conflicts. At this point, the only issue of interest is whether Article 44 in any way weakens the ban on terrorism and consequently encourages recourse to terrorist acts.

As mentioned previously, Article 44 modifies the conditions to be fulfilled for a person to qualify as a legitimate combatant. The requirements have become less stringent in that, by virtue of Article 44, some persons can now claim, under certain circumstances, the privileges accorded to combatants which they would not have been entitled to under the old law. Consequently, Article 44 has slightly enlarged the group of persons entitled to participate in hostilities.

However, Article 44 in no way modifies the concomitant obligations of combatant status. Anyone entitled to engage in combat must abide by the rules of the law of war, including the ban on terrorism. Under Articles 43 and 44, no distinction is made between two categories of combatants, namely "regular combatants" bound by all the obligations of the law of war, and "guerrilleros" whom some consider partly absolved from those obligations. *All* combatants belong to the same class, all must abide by the same rules, and *all* are faced with the same consequences if they violate the law of war: they are liable to prosecution for violation of the law of war and, under certain specified circumstances, for war crimes. Therefore, guerrilla fighters committing a terrorist act against civilians also have to face criminal proceedings. Article 44 does not condone disregard for traditional obligations under humanitarian law, and it does not grant immunity against the consequences of committing any terrorist act.

At the most, one may wonder whether recognition of certain aspects of guerrilla warfare by international humanitarian law could not lead to an increase in terrorist acts by combatants. The question is a difficult one. What is established is that, under the new law, the perpetrators of such acts and their instigators can now be called to account for their conduct in a different way, since they are now subject to the whole body of international humanitarian law.

This short reference to Article 44 must be related to the comments on Article 1, par. 4, on wars of national liberation. In the opinion of some, it is the very combination of these two innovations that could weaken the protection of the civilian population against terrorist acts. Both innovations are meant to correct situ-

ations considered inequitable and subject them to the jurisdiction of the law of international armed conflicts, since this body of law is endowed with strict and particularly well-developed regulations. Neither of the two provisions—whether individually or jointly—in any way undermines the ban on terrorist acts. Guerrilla fighters engaged in a war of national liberation who unlawfully terrorize civilians are terrorists and must answer for their conduct.

Final remarks

Within the scope of international humanitarian law, terrorism and terrorist acts are prohibited under all circumstances, unconditionally and without exception. The authorities of the parties to the conflict—and all States party to the humanitarian instruments—are obliged to prosecute any alleged offender against the prohibition of terrorism.

The law of armed conflicts is particularly well developed and can provide guidance to the legal approach to terrorism in peacetime. Any act forbidden to combatants by the law of armed conflicts because it amounts to terrorism should equally be prohibited and prosecuted under the law applicable in peacetime—regardless of the perpetrator.

Hans-Peter Gasser
Legal Adviser to the Directorate
ICRC

ICRC CONTACTS WITH THE UNITED NATIONS INTERNATIONAL LAW COMMISSION

Since 1981, the ICRC has maintained regular contact with the United Nations International Law Commission, a subsidiary body of the United Nations General Assembly. The Commission is composed of 34 members, elected from among the most eminent representatives of all the world's legal systems. Its mandate under the UN Charter is to work for the codification and progressive development of international law.

In view of the organic connections between general international public law and international law applicable in armed conflicts, this contact with the Commission is of great importance.

During the visit by members of the Commission to the ICRC on 30 June 1986, the President of the ICRC spoke to them about the principal concerns of the ICRC in the field of law, prior to the Twenty-fifth International Conference of the Red Cross.

The text of his speech follows:

"It always gives me great pleasure to welcome you to the ICRC for another of our traditional meetings.

We regard the immense task entrusted to you, namely to work for the codification and progressive development of international public law, as one of paramount importance to the international community, for it is primarily by the law in force that the many problems facing that community should be solved. More than ever, it is in your work that adequate means must be sought for international society to attain a state of law in which the ever increasing tensions of our time will find other solutions than recourse to force

and violence. As it has been for the past 123 years, the ICRC is present today on the international scene, encountering situations in which the parties resort to force, when attempts at peaceful settlement fail. As you are aware, our institution devotes itself to alleviating the suffering of the victims of armed conflicts. The principal objective of the rules of international humanitarian law is to protect those victims.

As you also know, the structure of international humanitarian law was completed some years ago by the Diplomatic Conference of 1974-1977, which led to the signing of the two Protocols additional to the Geneva Conventions of 1949.

Nine years after the entry into force of these Protocols, only 59 States have ratified the first and only 52 the second. These figures should be compared to the 164 States which are Parties to the Geneva Conventions and which, we may note in passing, thus constitute today the greatest community of nations bound by a common treaty.

The disparity between the level of participation in the Geneva Conventions and in the Additional Protocols—no matter what the reasons—is a matter of growing concern to us, as you will understand.

How can we best accelerate the ratification of the Protocols? We should be glad to have your suggestions on this question, suggestions of a general nature or suggestions relating to your own countries or other countries with which you are particularly well acquainted.

Apart from questions relating to ratification of the Additional Protocols, the implementation of the rules embodied in the Law of Geneva now in force has encountered serious difficulties in recent years. This trend is of great concern to us, for if the standards of our civilization are to be preserved, the rules of international humanitarian law and universally recognized humanitarian principles must be upheld and the ICRC must be able to carry out the humanitarian mandate entrusted to it by the international community.

The forthcoming International Conference of the Red Cross in Geneva this autumn, our twenty-fifth—at which 137 National Red

Cross and Red Crescent Societies, their international federation the League and the ICRC will assemble side by side with representatives of the States party to the Geneva Conventions—will have to discuss the primordial problem of respect for international legal commitments in the humanitarian domain, and in particular to recall to the States the importance of observing Article I, common to all the Geneva Conventions, specifying that "The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances".

The ICRC is following your work closely, in full awareness of its direct impact on the development and implementation of international humanitarian law. We note with great interest that the present meeting of your Commission is dealing again with rules to punish crimes against peace and the security of mankind. This discussion is highly significant for us, all the more since the protection of conflict victims is the very purpose of our own endeavours.

Does the international law now in force actually correspond to the needs and demands entailed by modern forms of conflict? We raise this question especially in relation to the Law of the Hague, where a continuing effort at modernization appears to us to be one of the vital tasks in the development of international law.

Another problem of concern to us is that of the need for the international humanitarian law now in force to be known and understood by those responsible for putting it into effect—the armed forces, political leaders, lawyers and diplomats—indeed by everyone who may find himself in a situation calling for the application of this law. The obligations incumbent upon governments by virtue of the Conventions and Protocols are not being adequately assumed by the States which signed and ratified them.

Without this kind of education in international humanitarian law, the discharge of our mandate will inevitably continue to be seriously impeded, due to ignorance.

In this connection, we are glad to inform you of the publication this autumn of a Commentary on the Additional Protocols of 1977.

The ICRC asked several of its lawyers to continue in this way the work of the Commentary on the Geneva Conventions, as an essential part of its activities in interpreting and disseminating knowledge of the law for which it is responsible.

We are convinced that with your eminent command of international law you will be able to help us achieve this objective and contribute directly to it, both through your work and through the high places you occupy in international affairs.

I thank you for the honour you have accorded us in accepting our invitation and I ask you, Mr. President, Excellencies, Ladies and Gentlemen, to recognize in this invitation evidence of the great interest we have in your activities. May your work, one day, make the reign of law prevail throughout this troubled world, where violence and cruelty are increasingly depriving men and women of its protection."

INTERNATIONAL COMMITTEE OF THE RED CROSS

Appointment of the future President of the ICRC

The International Committee of the Red Cross (ICRC) has approached Mr. Cornelio Sommaruga, at present Swiss State Secretary for External Economic Affairs, to succeed Mr. Alexandre Hay, who has expressed the desire to retire from the presidency of the Institution before the end of his third term of office, which expires at the end of 1988.

Mr. Sommaruga has just accepted the ICRC's proposal. He will take up his duties during 1987 on a date to be specified later. Until then President Hay will continue in office full-time.

M. Sommaruga has already been appointed a member of the Assembly of the International Committee of the Red Cross and will take up his seat once he has left the Federal Administration of Switzerland.

Born in Rome in 1932, a Swiss citizen originating from Lugano (Ticino), Mr. Cornelio Sommaruga graduated with a doctorate in law from the University of Zurich in 1957. He entered the services of the Swiss Confederation in 1960. Until 1973 he held various diplomatic posts in The Hague, Bonn, Rome and Geneva. Appointed Deputy Secretary-General of the European Free Trade Association (EFTA) in 1973, he returned three years later to the Federal Office for Economic Affairs. He became Delegate of the Swiss Government for Trade Agreements in 1980 and, in 1984, he replaced Mr. Paul Jolles as State Secretary for External Economic Affairs.

Appointment to the Executive Board

The Assembly of the International Committee of the Red Cross, in its meeting of 5 June 1986, appointed Mr. André Ghelfi as a member of the Executive Board. He will take up his duties at the meeting of the Executive Board on 1 October 1986.

Mr. André Ghelfi has been a member of the ICRC Assembly since 9 May 1985.

ICRC President Carries Out Mission in Rabat

ICRC President Alexandre Hay, accompanied by the ICRC Delegate General for the Middle East and North Africa, travelled to Rabat on 28 June to have talks with King Hassan II of Morocco on humanitarian issues related to the Western Sahara conflict.

After preliminary discussions with Foreign Affairs Minister Filali, Mr. Skalli, who was formerly Ambassador in Geneva and is now the head of the political department at the Foreign Affairs Ministry, and other Moroccan government officials, Mr. Hay was received by the King in the company of the Foreign Affairs Minister and a high ranking Army officer.

In Rabat, the ICRC representatives also met Mr. Medi Bennouna, member of the Moroccan Red Crescent Central Committee.

The President of the Federal Republic of Germany Visits the ICRC

During his stay in Geneva, Mr. Richard von Weizsäcker, President of the Federal Republic of Germany, visited the International Committee of the Red Cross on 12 June 1986. He was received by Mr. Alexandre Hay, President of the ICRC, and members of the Committee and Directorate. Mr. von Weizsäcker and Mr. Hay

discussed various humanitarian issues during their meeting, which gave the ICRC President the opportunity to emphasize how much the Federal Republic of Germany's support to the institution's activities was appreciated.

During the visit, Mr. Richard von Weizsäcker was accompanied by Dr. Hans Arnold, Ambassador of the Federal Republic of Germany to the United Nations in Geneva, and by members of his staff.

Visit by the President of the Republic of Senegal

Mr. Abdou Diouf, President of the Republic of Senegal and current Chairman of the Organization of African Unity (OAU), and Mrs. Abdou Diouf, Honorary President of the Senegalese Red Cross, visited the ICRC on 18 June 1986.

Mr. Diouf was received by Mr. Alexandre Hay, President of the ICRC, members of the Committee and Directorate and heads of the main services of the institution. Cheikh Hamidou Kane, Minister of Planning and Co-operation, Mr. Andre Sonko, Minister of Public Offices, Work and Employment, Mrs. Mantoulaye Guene, Minister of Social Development, and Mr. Alioune Sene, Ambassador to Switzerland and Permanent Representative of Senegal to the Office of the United Nations at Geneva, accompanied Mr. Diouf during his visit.

During the meeting between the OAU's current Chairman and leading members of the ICRC a wide-reaching exchange of views on the current situation in Africa took place. Of the ICRC's 37 delegations throughout the world, no less than 14 are in Africa, so that the ICRC and the OAU have a number of common concerns, and close dialogue between the two organizations is therefore of great importance.

Accession of the Republic of Equatorial Guinea to the Geneva Conventions and to the Protocols

The Republic of Equatorial Guinea deposited with the Swiss Government its instruments of accession to the four Geneva Conventions of 12 August 1949 and to Additional Protocols I and II adopted on 8 June 1977.

Pursuant to their provisions, the Geneva Conventions and the Protocols will enter into force for the Republic of Equatorial Guinea on 24 January 1987.

The Republic of Equatorial Guinea thus becomes the 164th State party to the Geneva Conventions, the 60th State party to Protocol I and the 53rd to Protocol II.

Accession of Jamaica to the Protocols

On 29 July 1986 Jamaica deposited with the Swiss Government an instrument of accession to the Protocols additional to the Geneva Conventions of 12 August 1949 and relating to the protection of victims of international armed conflicts (Protocol I) and non-international armed conflicts (Protocol II), adopted in Geneva on 8 June 1977.

In accordance with their provisions, the Protocols will come into force for Jamaica on 29 January 1987.

This accession brings to 61 the number of States party to Protocol I and to 54 those party to Protocol II.

Tribute to Michel Testuz

For reasons of health, Mr. Michel Testuz has been obliged to give up his position as editor of the *International Review of the Red Cross*, in which he served with distinction since 1977, and enter into early retirement.

Those who have seen him at work, during a career devoted to the humanitarian cause for nearly forty years, and in particular the readers of the *Review*, will greatly regret this decision and the loss it entails, while deferring to the circumstances which made it necessary. This scholarly man, with his rich culture and brilliance as an editor, maintained the standards of this traditional voice of the ICRC at the high level befitting its function and assured the universal respect it enjoys.

With his skill and judgement in producing the ICRC's principal medium for the regular communication of basic information, he made certain of the value and depth of thought of its contents, as the most essential thing, and also provided the variety and vivacity of style which made it a pleasure to read. Imbued with a feeling for work well done, and never satisfied with things that were "good enough," he put together every issue of the magazine with scrupulous care, adding to it the felicitous touches of his own style in numerous important articles that he wrote himself.

Michel Testuz deserves the gratitude of the Red Cross world for other things as well. Before becoming editor of the *Review*, he had served as head of an ICRC delegation, having worked in the field since 1948. In his early academic career he specialized in Oriental Studies and graduated with a doctorate from the Sorbonne. He later wrote a number of scholarly works and became a professor of Hebraic and Arabic literature at the Universities of Lausanne and Geneva. Fluent in ten languages, he was particularly well fitted to work in Asia and the Middle East. Accordingly, he first served the ICRC as a delegate in Palestine and then in Japan, for eight years. He subsequently became head of delegation in Cambodia and served in the same capacity in Pakistan and Egypt. It is impossible here to enumerate all the missions he carried out, with consistent success, or to do more than mention the remarkable work he accomplished in the Far East for refugees and stateless persons. We can only say, in summation, that his perspicacity, negotiating talent

and dedication were remarkable and gained him universal esteem.

In 1980, he wrote an illustrated publication under the title *The ICRC and its Activities in the World*, a popularized work of great value in dissemination, with the essentials expressed briefly and clearly.

As this exceptional but unassuming man leaves us, we wish to express to him our great appreciation for the eminent services he has rendered to the humanitarian cause, together with our warm and friendly wishes that the improvement of his health will enable him to enjoy to the full his well-earned retirement and to continue at leisure the scholarly work which is so dear to him.

J. P.

New editor-in-chief of the *International Review*

Mr. Jacques Meurant, who succeeds Mr. Michel Testuz as editor of the *International Review of the Red Cross*, was born in Lille, France, in 1932. After studying in Lille and Paris, Mr. Meurant became a teacher in 1957 and taught English at the Henry IV High School and the Jules Ferry High School in Paris.

Following a period with the French Red Cross, Mr. Meurant went to the League of Red Cross Societies in January 1962 as Special Assistant attached to the Secretary General's office.

In 1973, Mr. Meurant was appointed Special Adviser to the Secretary General and was responsible for statutory and legal matters. In this capacity, he advised the Secretary General on legal and constitutional issues relating to the statutes and functions of the League of National Red Cross and Red Crescent Societies, as well as to the doctrine and principles of the Red Cross, international humanitarian law and human rights. He was closely involved with the work of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law (1974-1977) and co-ordinated League activities in the field of dissemination of international humanitarian law and Red Cross principles and ideals.

In 1979, Mr. Meurant succeeded Mr. Jean Pictet, Vice-President of the International Committee of the Red Cross, as Director of the

Henry Dunant Institute, a centre specializing in research training and publications for the international movement of the Red Cross and Red Crescent.

While Mr. Meurant was its Director, the Henry Dunant Institute carried out some eighty programmes, serving mainly the Red Cross and Red Crescent Movement and academic circles, and concerned with research (primarily international humanitarian law), training and dissemination (organization of courses and seminars) and publications.

Mr. Meurant has done considerable research work himself and has published numerous articles on Red Cross thought, humanitarian law and various aspects of Red Cross activities in the harsh reality of today's world. He is the author of a book on Red Cross voluntary service in present-day society, and he was the rapporteur at the First World Red Cross Conference on Voluntary Service (Mexico, March 1983).

He has also given talks on the Red Cross and humanitarian law at several international and national Red Cross meetings and at various academic institutions.

In the course of his work, Mr. Meurant has had much close contact with the National Red Cross and Red Crescent Societies and has co-operated closely with academic institutions and specialized institutions operating in the humanitarian field.

Mr. Meurant holds a doctorate in Political Science from the University of Geneva. He is a graduate of the Institute of Political Studies in Paris and the French Institute of Journalism in Paris and also has an Arts degree. He is a member of the Executive Council of the International Institute of Humanitarian Law in San Remo, the Council of the International Institute of Human Rights in Strasbourg and the Swiss Study Commission on the Second World War.

EXTERNAL ACTIVITIES
May-June 1986

Africa

Sudan

Mr. J.-M. Bornet, ICRC delegate-general for Africa, went to Khartoum where he was received on 3 June by the Sudanese Prime Minister, Mr. Sadiq el Mahdi. The discussions centred mainly on the ICRC's work in Sudan and in the Horn of Africa.

The ICRC continued the operation undertaken from Kenya in April (ICRC office and storage depots in Lodwar-Lokichogio), involving the provision of relief supplies and the evacuation of the wounded in southern Sudan, continued. However, because of adverse weather and dangerous conditions, the operation was scarcely stepped up despite the increase in the number of displaced people in the Narus area (20,000 by the end of June).

In addition, after contacts made in Khartoum and with the local authorities, an ICRC sub-delegation was opened on 26 June in Juba, a city under government control, initially to determine the needs of the people in the region and the level of danger.

Ethiopia

The general tendency towards an improvement in the state of health of the people affected by the conflict and the drought in Tigray (apart from central Tigray) and Eritrea was confirmed during the period under review. Nevertheless, the delegates noted a less encouraging state of affairs in Sekoto (Wollo) and in the mountainous regions in southern Hararge, despite the joint rescue operation (JRO) mounted by the ICRC and the Ethiopian Red Cross. In May and June relief distributions continued in these regions and reached approximately 400,000 people. In addition, more than 60,000 families were supplied with farming tools.

In connection with the effects of the Ogaden conflict, the ICRC was not authorized to renew its visits in accordance with the Geneva Conventions, to all the Somali prisoners of war being held in Ethiopia. However, on 24 June an ICRC doctor was able to examine people detained in Harar prison.

The family-reunification programme set up in Wollo in co-operation with the Save the Children Fund continued. It involves putting unaccompanied children on display during food distributions so that they might be recognized by a relative. Since this method was deployed, 735 children have found their families again.

South Africa

The ICRC delegation in South Africa continued its efforts to support the National Society in its assistance programme for the victims of the troubles. During the events in Crossroads which occurred on 18 May one third of this township was destroyed and the victims were helped by the South African Red Cross which provided first aid (setting up first-aid posts), distributed food and blankets and opened temporary reception centers.

On 13 June, the day after President Botha declared a general state of emergency, the ICRC delegation renewed its offer of services to the South African Government, asking to be allowed to visit those who had been arrested as a result of this legislation.

Latin America

El Salvador

ICRC delegates visited security detainees throughout the country in 128 places of detention in May and 106 in June (penitentiary establishments under the responsibility of the Ministry of Justice and provisional detention centres run by the armed forces and security corps). Some 800 persons applied each month to the ICRC Tracing Agency in El Salvador for information concerning missing relatives, presumed to have been detained or displaced.

Over 107,000 and 118,000 people benefited from the ICRC and Salvadorean Red Cross food aid programme in May and June respectively. A total of 925 tonnes of supplies were distributed. In addition, 500 families in the north of Morazan received maize seed under a new programme which should help to improve the nutritional situation of the civilian population. The medical campaigns (treatment of civilians, transfer of the severely ill and injured to hospital establishments, distribution of medical supplies to civilian hospitals) and the campaigns to improve hygiene were continued.

Several more conferences on international humanitarian law and the work of the Red Cross were organized for the armed forces.

Nicaragua

Full visits were conducted in May and June to the Zona Franca prison in Managua and to Chinandega, Esteli, Granada, Juigalpa and Matagalpa prisons, with the participation of the ICRC medical team.

The programme of assistance to the civilian population affected by the conflict, mainly focussing on food, brought relief to over 12,000 people in May and nearly 20,000 in June in the regions of the Atlantic coast, the north-east (the Rio Coco region) and the north-west of the country. The Nicaraguan Red Cross has been closely associated with this operation.

Peru

The protection of persons detained under Decree-Law 046 continued in Lima and in the provinces, including those regions where the state of emergency had been declared. ICRC delegates were granted access to penitentiary establishments, as well as to the provisional detention centres run by the police and civil guard.

Following the uprisings which took place on 18 June in three prisons in Lima and the measures taken by the authorities to re-establish order, the ICRC asked to carry out a visit immediately, in order to evaluate detainees' needs after these events, provide them with any assistance they might require and keep their families informed. Less than a fortnight later, visits were made to Canto Grande and Lurigancho in the capital and to the prison in Ica, where medical supplies and clothes were also distributed.

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The ICRC has continued to visit security detainees in the prisons under the responsibility of the Ministry of Justice in *Chile*. At the end of June it also resumed its visits in *Colombia*.

Asia/Pacific

Conflict in Afghanistan

Following the fruitful discussions held in Kabul in April, the ICRC submitted a further aide-memoire to the Afghan authorities, setting out its intended programme of action and measures as regards visits to persons detained. This document was handed to the Deputy Minister of Foreign Affairs, Mr. Sarwar Yourish at a meeting in Geneva on 19 May.

The mission to Kabul in April by the Delegate General for Asia and the Pacific had also focussed on the principles which would govern medical assistance work in Afghanistan, in collaboration with the Afghan Red Crescent. In May the ICRC sent a document to the National Society, setting out detailed proposals for co-operation in the two medical fields of rehabilitation of the physically handicapped and war surgery.

Viet Nam

A second seminar to disseminate international humanitarian law was organized for the National Society's leading members by the ICRC and the Vietnamese Red Cross from 24 to 27 June (the first seminar had taken place in November 1985).

Malaysia

May saw the resumption of the series of visits to persons held in administrative detention under the Internal Security Act (ISA), which had been broken off in 1983 when the ICRC was not granted access to all the detention centres where detainees in this category were held. From 5 to 15 May a team of ICRC delegates visited 72 ISA detainees in three detention centres (including that to which access had been refused in 1983).

The Malaysian authorities subsequently agreed to allow the ICRC to visit other categories of ISA detainees. These visits, to ten detention centres, began on 16 June and were completed in July.

Indonesia

From 25 March to 21 May ICRC delegates conducted a series of visits to persons detained following the attempted *coup d'état* in September 1965 (formerly category G 30.S/PKI). 92 prisoners were visited in 15 detention centres throughout the country. The last series of visits to these people dated back to 1983.

ICRC delegates also carried out a series of visits, from 18 to 28 June, to the persons detained in connection with the situation in East Timor. Delegates visited 227 detainees in two detention centres in Dili and two other prisons in Djakarta.

Middle East

Conflict between Iran and Iraq

In May and June the ICRC continued its visits to Iranian prisoners in Iraq; conversely, it was not able to resume its protection activities for Iraqi prisoners of war in Iran since these activities had been suspended by Iran on 10 October 1984.

Mr. Pasquier, Director of Operations at the ICRC, visited Iran between 12 and 15 May to discuss with the Iranian authorities the resumption of the ICRC's protection activities for Iraqi prisoners of war.

In the course of his mission, Mr. Pasquier met Mr. Mohayeri, Deputy Prime Minister, Mr. Velayati, Minister for Foreign Affairs, Mr. Larijani, Deputy Minister for Foreign Affairs and Mr. Mahalatti, Director General of the Department for International Organizations. Discussions also took place with officials from the Iranian Red Crescent.

From 21 April to 15 May ICRC delegates visited some 10,000 Iranian prisoners of war in nine camps and four military hospitals in Iraq.

In May and June the ICRC continued to exchange family messages between Iranian prisoners of war and their families and between Iraqi prisoners of war and their families.

Lebanon

After the fighting which broke out on 26 May in Beirut in the region of the Borj El Brajneh Palestinian camp and intermittently in Chatila camp the ICRC remained in constant contact with the parties involved in order to assist the victims and evacuate the wounded. Extensive medical aid (distribution of medical material and medicaments) was provided for the hospitals and the emergency centres in West Beirut and in the southern suburbs of Beirut to treat those who had been wounded in the fighting. Similar assistance could not be supplied to the camps: the ICRC was advised by all concerned that the military situation in the field would prevent humanitarian activities in the camps. It is to be noted, however, that the dispensaries in Chatila and Borj El Brajneh camps had been visited by the ICRC before the beginning of the fighting: a large quantity of medicaments and medical material was distributed in Chatila whereas it was established that such supplies were not needed in Borj El Brajneh. In connection with relief supplies, a material assistance operation was mounted for 415 families who had been displaced because of the events: they were given blankets, family parcels and sets of kitchen utensils.

Another medical assistance operation was mounted in Machgara, in the Bekaa, where fighting occurred in June: after having made contact with the various parties to the conflict, two delegates and a nurse went to this town to bring medical aid to the victims of the fighting.

In addition, regular surveys were conducted in May and June in the hospitals and dispensaries in the various regions of Lebanon: medicaments and medical equipment were distributed depending on requirements.

The ICRC continued its activities in the orthopaedic centers of Beit Chebab, Sidon and in the workshop at Hammana run by a Dutch team assisted by an ICRC technician.

Europe

Spain

Between 24 April and 29 May a team of ICRC delegates visited 455 detainees being held under the anti-terrorist law in 15 places of detention (including two hospitals) under the jurisdiction of the Ministry of Justice.

This mission came within the framework of a series of visits which started in May 1984. Accompanied by a delegate and a doctor who had taken part in the visits, the delegate-general for Europe and North America went to Madrid on 1 July 1986 to report to the relevant authorities.

International Round Table on Red Cross and Red Crescent Voluntary Service

An International Round Table on Red Cross and Red Crescent Voluntary Service, organized by the Henry Dunant Institute in close co-operation with the ICRC and the League, was held in Geneva from 28 to 30 April 1986.

Seventeen National Red Cross and Red Crescent Societies (7 in Africa, 2 in the Americas, 1 in Asia and 7 in Europe) sent twenty-two delegates chosen from the heads of voluntary services or volunteers with broad field experience. Several staff members from the ICRC, the League and the Henry Dunant Institute also attended.

The opening ceremony, presided over by Mr. Jean-Paul Buensod, President of the Henry Dunant Institute, took place in the presence of Mr. Maurice Aubert, Vice-President of the ICRC and Mr. William Gunn, Special Adviser for International Relations representing Mr. Hans Hoegh, Secretary General of the League.

The aim of this round table was to study, in preparation for the Twenty-fifth International Conference of the Red Cross (Geneva, October 1986), certain aspects of Red Cross and Red Crescent voluntary service in the light of socio-economic changes of our time and emergency situations. Another objective was to follow up resolutions adopted by the Twenty-fourth International Conference of the Red Cross (Manila, 1981) and the VIth Session of the League General Assembly (Geneva, 1985) relating to the status, rights and duties of volunteers; relations between volunteers and salaried staff; the training and motivation of volunteers, as well as their integration and participation in all stages of the planning and implementation of activities.

Finally, this round table provided the opportunity to update the conclusions of a study carried out from 1980 to 1984 by the Henry Dunant Institute.*

Divided into two working groups chaired respectively by Mrs. Véronique Ahouanmenou, President of the Red Cross of Benin and Mrs. Jackie David, former National Chairman of the American Red Cross Volunteers, the participants discussed the following three topics consecutively: "Rights, Duties and Legal Status of Red Cross and Red Crescent Volunteers"; "The Practice of Red Cross and Red Crescent Voluntary Service" and "Informal Groups" and traditional voluntary service.

While studying the first subject, "Rights, Duties and Legal Status of Red Cross and Red Crescent Volunteers" introduced by Mr. Jean Pascalis, Deputy Secretary General of the Swiss Red Cross, the participants stressed volunteers' responsibilities in situations of conflict and in the event of natural disasters.

They thus recommended that in agreement with the military authorities, the National Societies outline what contributions they make or could make to the armed forces' health services, in accordance with Articles 24 and 26 of the First Geneva Convention of 1949.

Likewise, the National Societies should in time of peace establish contact with the armed forces' health services to determine the contribution of volunteer workers not placed on the same footing as military medical personnel to tasks which are not specifically provided for in Article 26.1 (for example, blood donation campaigns, medical and social assistance to refugees, displaced persons, the homeless, etc.).

The National Societies were also asked to define with the civil authorities the terms of their co-operation in order to determine in advance which civilian medical service personnel and installations are entitled to use the emblem in situations of conflict.

On all these points, the round table advised the National Societies to refer to the *Guide for National Red Cross and Red Crescent Societies to Activities in the Event of Conflict* drawn up by the ICRC.

In general, the round table recommended that the National Societies issue a national charter specifying the rights and duties of volunteers and take adequate measures to ensure their protection through group and individual insurance schemes covering them in their daily work, as well as in emergency situations.

Mr. Jacques Meurant, Director of the Henry Dunant Institute, presented the topic, "The Practice of Red Cross and Red Crescent Voluntary Service", which covers several points: the recruitment, selection, training and supervision of volunteers; their participation in the life of the National Society and the evaluation of their service.

* The Henry Dunant Institute study entitled "Red Cross Voluntary Service in Today's Society" was published in French in 1984 and in English in 1985. Spanish and German versions are under way. A summary was published in the *International Review of the Red Cross* (No. 240, May-June 1984, pp. 179-180).

The participants emphasized the difficulties encountered by the National Societies in their volunteer-recruitment efforts and therefore recognized the imperative need to *instill the humanitarian reflex in the innermost depths of the human being* by disseminating knowledge of international humanitarian law and the fundamental principles of the Red Cross at as early an age as possible.

After having exchanged views on recruiting and training methods, the participants focused on the effects of natural disasters, as well as the impacts of underemployment and joblessness on volunteer recruitment and the appropriate means for keeping them motivated and interesting them in their National Society's development.

After having reaffirmed the National Societies' obligation to ensure adequate training adapted to the various tasks the volunteers may be called upon to carry out, the round table recommended in particular that specific training (first aid, rights and duties of medical personnel in time of armed conflict, etc.) be given to medical personnel likely to be placed at the disposal of the armed forces' medical services.

The delegates paid special attention to the *participation* of volunteers, now called upon to work *with* communities and no longer *for* them in identifying their needs and setting up programmes and services. Recognizing that the integrated approach to community needs requiring *multidisciplinary team* action (Red Cross action teams) favours the integration of volunteers in the life of the National Society and develops their efficiency, the participants recommended the formation of such teams, especially on the local level, and their training for multipurpose assignments.

Broaching the topic of the structure and organization of voluntary service within the National Societies, the round table felt that an effective system is one which gives volunteers maximum possibilities of integration in the life of the National Society, i.e. adequate supervision, guidance and training, and taking part in activity programming. It recommended, therefore, that the National Societies encourage volunteer participation in programme planning and evaluation, and that they make provisions for a personalized volunteer development plan allowing them to improve their knowledge and take on greater responsibilities.

Finally, the National Societies were invited to set up communication and information systems, even consultative bodies, on national, regional and local levels to ensure smooth relations among management, salaried staff and volunteers.

The third topic, "informal groups and traditional voluntary service" introduced by Mrs. Jackie David, allowed participants to compare two notions of participation in community life: one, the traditional notion in which the Red Cross takes pride; the other, a more recent one whereby individuals and groups join together to enhance the quality of life, to protect themselves against obstacles, shortcomings and abuse or to solve their problems themselves.

The round table encouraged co-operation between the National Societies and such groups (particularly with regard to identifying community needs, volunteer recruitment and the dissemination of knowledge of Red Cross ideals) as long as their objectives are compatible with the fundamental principles of the Red Cross.

At the end of the meeting, the participants adopted the conclusions and recommendations of the two working groups presented by their rapporteurs, Mrs. Hélène Delpon de Vaux, head of volunteers for emergency missions at the French Red Cross and Mr. Andrew Okoth, training programme director of the Kenya Red Cross Society. These texts will be presented at the Twenty-fifth International Conference of the Red Cross.

In conclusion, the Director of the Henry Dunant Institute expressed his pleasure at the round table findings, which shed new light on certain aspects of Red Cross voluntary service and showed that voluntary service within the National Red Cross Societies, like contemporary society, is highly varied, but that the principles which inspire it remain immutable.

Dissemination seminar for National Societies of Europe and North America

A seminar on the methods and means of disseminating knowledge of international humanitarian law and the principles and ideals of the Red Cross was held in Baden, near Vienna, from 8 to 14 June 1986. It was organized by the Austrian Red Cross and the ICRC, in co-operation with the League, and brought together forty-four representatives from 25 European and North American National Societies.

The opening ceremony was held in the presence of Dr. Heinrich Treichl, President of the Austrian Red Cross, Mr. Jacques Moreillon, Director General at the ICRC, and Mr. Hans Hoegh, Secretary General of the League. The ICRC was also represented by Mr. Alain Modoux, Head of the Information Department, and five other staff members. The League had furthermore delegated Mrs. Yolande Camporini, Technical Adviser, Statutory Matters and Dissemination.

Each day's discussions were devoted to a specific target group: National Societies, the armed forces, government circles, academic circles, young people, the mass media and the general public.

Each topic was first introduced by an expert from outside the Movement, fully acquainted with the problems of how best to approach the target group in question, and then dealt with by a representative from one of the National Societies taking part. The participants were later divided into four groups to examine dissemination methods relative to the target group in question, and in the afternoon pratical or rôle-playing exercises were carried out and commented on.

Summaries of the discussions, which proved very fruitful, were included in the final report distributed to the participants at the end of the seminar.

Joint Commission of the Empress Shôken Fund No. 77

Geneva, July 1986

SIXTY-FIFTH DISTRIBUTION OF INCOME

The Joint Commission entrusted with the distribution of the income of the Empress Shôken Fund met in Geneva on 10 and 27 March 1986. The Japanese Red Cross Society was represented by His Excellency Ambassador Kazuo Chiba.

The Commission noted the statement of accounts and the situation of the Fund as at 31 December 1985 and confirmed that the balance available amounted to 256,531.36 Swiss francs.

In examining the applications, the Joint Commission reviewed the experiences of the past few years. The Commission noted that the following criteria which it had established were still valid:

a. to restrict the number of allocations, thereby increasing the allocations so as to permit the beneficiary National Societies to implement the plans envisaged;

b. to uphold only those from developing National Societies unable to have their projects financed otherwise and, among such Societies, whenever feasible those which have hitherto benefited least from assistance from the Empress Shôken Fund;

c. to refrain from considering the requests from those National Societies which have not conformed to the requirements under Article 5ter of the Regulations according to which the beneficiary National Societies are expected to report on the use of the allocations received.

The Joint Commission decided that:

i. allocations be transferred to the beneficiaries only upon presentation of either invoices or proof of purchase;
ii. allocations remaining unclaimed or unused after twelve months are to be withdrawn and added to the amount available for the next distribution.

Twenty-three National Societies submitted requests for allocations from the 65th distribution of income and the Joint Commission decided to make the following grants based on the above-mentioned criteria:

Chilean Red Cross: Sw. fr. 35,000
for the purchase of a 7-tonne truck

Indian Red Cross Society: Sw. fr. 25,000
for the purchase of a vehicle
for training purposes

Indonesian Red Cross: Sw. fr. 30,000
for the purchase of 2 ambulances

Fiji Red Cross Society: Sw. fr. 4,000
for the purchase of 8 wheelchairs

Liberian Red Cross Society: Sw. fr. 50,000
for the purchase of equipment for
blood transfusion

Peruvian Red Cross: Sw. fr. 30,000
for the purchase of equipment
for blood transfusion

Tunisian Red Crescent Society: Sw. fr. 20,000
for the purchase of equipment
for blood transfusion

Uganda Red Cross Society: Sw. fr. 25,000
for the purchase of a vehicle
(5 seater)

Yemen Red Crescent Society (Arab Rep.): Sw. fr. 35,000
for the purchase of equipment for
relief supplies

The Joint Commission also decided that the unused balance of 2,531.36 Swiss francs will be added to the income available for the 66th Distribution.

In accordance with Article 5ter of the Regulations, the beneficiary National Societies are required to report in due course to the Secretariat of the Joint Commission on the use which has been made of the allocations received. The Joint Commission would like this report, accompanied by photographs if possible, to reach it at the latest by the end of the year during which the allocation is used. It furthermore reminds beneficiaries of Article 5bis of the Regulations which prohibits them assigning the grant for purposes other than those specified without the previous consent of the Joint Commission.

In accordance with the Regulations, the 1986 income will be distributed in 1987. To facilitate applications in conformity with the Regulations, the Joint Commission will send in the near future model application forms to all National Societies. Requests for allocation must be submitted to the Secretariat of the Joint Commission before 31 December 1986.

For the Joint Commission

League of Red Cross and Red Crescent Societies	*International Committee of the Red Cross*
Mr. H. Hoegh	Mr. M. Aubert (Chairman)
Mr. B. Bergman	Mr. M. Martin
Mr. K. Seevaratnam	Mr. S. Nessi

Empress Shôken Fund

BALANCE SHEET AS AT 31 DECEMBER 1985
(Swiss francs)

ASSETS			LIABILITIES AND OWN FUNDS		
Securities in Portfolio:			Capital at 1.1.1985		3,328,777.18
Bonds in Swiss Francs (Market Value: *2,696,000.—)*		2,671,127.15	Contribution from the Government of Japan		203,658.—
Bonds in Foreign Currency (Market Value: *1,563,000.—)*		1,499,900.30	Contribution from the Japanese Red Cross		164,401.58
		4,171,027.45	Contributions from Japanese visitors		1,127.20
					3,697,963.96
Fixed Deposits:			Funds available at 31.12.85		256,531.36
Banque Romande, Geneva		250,455.08	Reserve Against Fluctuations		598,335.90
($ 153,913)		316,036.09	Reserve for Administrative Expenses:		
		566,491.17	Balance brought forward from previous year	22,213.42	
Accounts receivable:			Transfer from the income statement as per Regulations	7,466.43	
Recoverable withholding tax		17,105.07		29,679.85	
Cash at Bank:			*Less:*		
MM. Hentsch & Cie, Geneva		59,443.87	Administrative expenses for the year 1985	8,397.25	21,282.60
Crédit Suisse, Geneva . .		7,343.15	Accounts payable		
		66,787.02	League of Red Cross & Red Crescent Societies (Current Account)		123,607.18
			Allocations to be withdrawn		123,689.71
TOTAL		4,821,410.71	TOTAL		4,821,410.71

SECURITIES

Summary Analysis as at 31.12.1985
Evaluation at Market Value
(Swiss francs)

a) Investment by currency

Swiss Francs	2,696,825	63.30%
Japanese Yen	624,648	14.67%
Dutch Guilders	496,140	11.64%
German Marks	442,512	10.39%
	4,260,125	100%

b) *Investment by country*

Japan	2,437,844	57.23%
Netherlands	496,140	11.64%
Germany (Fed. Rep.)	442,512	10.39%
International (World Bank)	360,600	8.46%
Switzerland	188,500	4.43%
New Zealand	148,379	3.48%
France	133,900	3.14%
Great Britain	52,250	1.23%
	4,260,125	100%

STATEMENT OF INCOME AND EXPENDITURE
FOR THE YEAR ENDED 31 DECEMBER 1985
(Swiss francs)

INCOME

Interest income from securities	207,510.25
Interest on bank deposits	41,371.48
	248,881.73

EXPENSES

3.0% of total income above transferred to the provision for administrative expenses (Article 7 of the statutes of the Fund)	7,466.43

RESULTS

Excess of income over expenditure for 1985	241,415.30

STATEMENT OF APPROPRIATION

Balance carried forward from previous year	308,616.06
Less:	
Sixty-fourth distribution of income for the year 1984 to 10 National Societies and the Henry Dunant Institute	293,500.—
Unused balance	15,116.06
Excess of income over expenditure for the year 1985	241,415.30
BALANCE AVAILABLE AS AT 31 DECEMBER 1985	256,531.36

The accounts of the Empress Shôken Fund have been audited by *la Société Fiduciaire OFOR SA*. The financial report is obtainable from the League of Red Cross and Red Crescent Societies.*

* Original in French.

States party to the Geneva Conventions of 12 August 1949 and to the Additional Protocols of 8 June 1977

Recapitulation as at 30 June 1986

In its January-February 1986 issue, the *International Review of the Red Cross* gave a list of the States party to the Geneva Conventions of 12 August 1949 and to the Protocols of 8 June 1977, as at 31 December 1985. Without reprinting the entire list, we would simply like to note briefly which States became party to these treaties during the first half of 1985.

States party to the Geneva Conventions

As at 31 December 1985, 162 States were party to the Geneva Conventions of 12 August 1949. During the first half of 1986, St. Christopher and Nevis became party to the Geneva Conventions by a declaration of succession delivered to the Swiss government. In conformity with practice and the final clauses, the four Conventions came into effect retroactively for St. Christopher and Nevis on the date of its independence, 19 September 1983. Thus, as at 30 June 1986, 163 States are party to these Conventions.

States party to the Protocols

As at 31 December 1985, 55 States were party to Protocol I and 48 States to Protocol II.

During the first half of 1986, the following States submitted their instruments of accession or ratification:

14 February: St. Christopher and Nevis, accession to Protocol I (56th State party) and to Protocol II (49th State party); entry into force: 14 August 1986.

27 February: Italy, ratification of Protocol I (57th State party) and of Protocol II (50th State party; Italy is the seventh State to make the optional declaration of acceptance of the competence of the International Fact-Finding Commission, as provided for in Article 90 of Protocol I).

20 May: Belgium, ratification of Protocol I (58th State party) and of Protocol II (51st State party).

28 May: Benin, ratification of Protocol I (59th State party) and Protocol II (52nd State party).

As at 30 June 1986, 59 States were thus party to Protocol I and 52 States to Protocol II.

THE INTERNATIONAL DIMENSIONS OF HUMANITARIAN LAW

The literature of humanitarian law has been further enriched by the publication of *Les dimensions internationales du droit humanitaire* (The International Dimensions of Humanitarian Law).* This work, published by Unesco and the Henry Dunant Institute will not only gratify university circles, which will now have a real manual for teaching humanitarian law, but also disseminators in Red Cross and Red Crescent Societies who can use it for promotion of this law.

As a collective work prepared by the Henry Dunant Institute in co-operation with the ICRC, the book attempts to be as representative as possible of different schools of thought. It contains explanatory articles and essays by leading authorities in the fields of international public law, humanitarian law and human rights.

The first part is devoted to the *Nature of humanitarian law and its place in international law.*

As overseer of the work, *Mr. Jean Pictet*, former Vice-President of the ICRC, introduces the subject with his reflections on the universal character of humanitarian law, which he considers to be a law "for all men in all countries".

To demonstrate that humanitarian principles belong to all human communities and are deeply rooted in differing customs, moral attitudes, doctrines and religions, the editors asked the various authors to trace the

* *Les dimensions internationales du droit humanitaire*, Pedone, Henry Dunant Institute, Geneva, Unesco, Paris, 1986, 360 pp., FF 150. To be published shortly in English.

development of humanitarian ideas in numerous schools of thought and cultural traditions, giving emphasis to their common denominators.

Mr. Adamou Ndam Njoya, former Minister of National Education of the Republic of Cameroon, elucidates in his contribution the sacred character of the human being in pre-colonial Africa and describes the code of honour of warriors, based on tolerance, compassion and humanity toward the weak and the vanquished. This was a humanitarian code with points in common with that of the Bushi warriors in twelfth-century Japan, it was pointed out by *Prof. Sumio Adachi* of the Japanese National Defence Academy. Shintoism, Buddhism and Confucianism had a decisive influence at that time and would continue to shape the "military philosophies" of the seventeenth and eighteenth centuries, the primary purpose of strategy being "to make justice, humanity, peace and public order prevail and avoid unnecessary deaths".

In a rigorous analysis of the Koran, *Mr. Hamed Sultan,* former professor of public law at the University of Cairo, demonstrates that the Islamic concept of humanitarian law requires combatants "not to transgress and never to exceed the limits of justice and equity, thus lapsing into tyranny and oppression". It also provides special protection for certain categories of civilians—children, women, elderly and sick people and monks.

Is there such a thing as a "western conception" of humanitarian law? This question is raised by *Mr. Karl Joseph Partsch,* professor emeritus of public law at the University of Bonn. As the fruit of the successive contributions of the Christian doctrine of charity and fraternity and of secular humanism fostered by the classic thinking of the age of enlightenment, he concludes that the western conception owes much to Henry Dunant, Gustave Moynier and Max Huber, whose programme of humanitarian action should be seen as the synthesis of a humanism which is completely neutral as regards Christian ideologies and secular ethics.

Christian humanism is not unassociated with the development of humanitarian ideas in the nations of Latin America, in the view of *Mr. José Ruda,* professor of international public law at the University of Buenos Aires. He describes how it inspired the doctrine of the nineteenth century, with Andrès Bello and Carlos Calvo, that "war must not silence Christian feelings or conscience. The disarmed, defeated and captive enemy becomes sacred, as a human being".

Finally, *Mr. Géza Herczegh,* dean of the faculty of law and professor of international law at the University of Pécs, Hungary, shows that socialist humanitarian law includes rules for the protection of the human person and respect for human rights, in time of peace and in time of armed conflict, and that its essential aim is the preservation of peace.

This series of essays, illustrated by many examples and enriched with quotations and bibliographic references, will assuredly help ordinary readers as well as scholars to understand better the *Foundations of international humanitarian law and its development,* the subject of the second part of the book.

Mr. G.I.A.D. Draper, professor emeritus of the University of Sussex, describes the slow evolution of humanitarian thought through the ages, up to the time of its codification. Giving particular emphasis to the nineteenth century, he outlines the way in which humanitarian law was successively fostered by religion and chivalry and the rationalism of the eighteenth century, before being penetrated by ideas of compassion toward the end of the nineteenth century. How were these currents of humanitarian thinking translated into the international code for controlling warfare? It was through the actions of three men who lit the way into the future, Henry Dunant, Francis Lieber and Frederic de Martens whose merit it was "to formulate the inspiration, theory and content of the humanitarian law of which our century is the heir".

Despite the flowering of nationalism and the advent of the legal concept of state sovereignty, the Hague Conferences of 1899 and 1907 found means to reconcile military requirements with humanitarian feelings. The author also gives a vivid reconstruction of the further advances of humanitarian law, embodied in the Geneva Conventions of 1949 and the Additional Protocols of 1977.

The third part, *The law of armed conflicts,* consists of a series of studies of various aspects of this law, applicable in international and non-international armed conflicts.

The logical structure of this part will be of great help to teachers and laymen alike, all the more so because of its many references to history and to the socio-political context of events.

It was the task of the late *Richard R. Baxter,* professor of law at Harvard University and a judge of the International Court of Justice, who died in 1980, to write about the behaviour of combatants and the conduct of hostilities. In a much valued analysis he sets forth with precision the various forms of armed conflict, describes the mechanisms for applying humanitarian law, without concealing the difficulties involved, and disentangles the complex questions of distinguishing combatants from non-combatants and defining the status of prisoner of war.

Mr. Hans Blix, former Swedish Minister of Foreign Affairs, discusses the means and methods of combat, the responsibilities of states in deciding the means and methods of legal warfare, and examines the protection of the environment and the problem of weapons.

Protection of the victims of armed conflicts, the wounded, sick and shipwrecked, of prisoners of war and of the civilian population is dealt with successively by *Mr. José Francisco Rezek,* professor of constitutional law at the University of Brasilia, the late *Mr. Claude Pilloud,* legal adviser and director of the ICRC, who died in 1984, and *Mr. Oji U. Umozurike,* professor in the faculty of law of the University of Nigeria.

In his essay on the protection of cultural objects, *Mr. Stanislaw Nahlik,* professor emeritus of international public law at the Jagiellonian University of Cracow, demonstrates that the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law,

1974-1977, was concerned with protecting the cultural and spiritual values of the whole of mankind.

Mr. Georges Abi-Saab, professor of international law at the Graduate Institute of International Studies in Geneva, in his essay on non-international armed conflict reviews the evolution of protection for the victims of internal conflicts and the resistance of states to any attempt to establish obligatory international regulations on the subject, prior to the adoption in 1949 of Article 3 common to all four Geneva Conventions. After describing the practical difficulties encountered in applying this article, he examines the mechanisms contained in Protocol II, with their advantages and weaknesses.

The fourth part on the *Implementation of international humanitarian law* offers an occasion for *Mr. Yves Sandoz,* head of the Department of Principles and Law of the ICRC, to explain the means available to states to put humanitarian law into effect—preventive means, means of supervision, the repression of violations, and the role of the ICRC. He concludes that, "In a world without any real tribunal or supranational power, persuasion based on honesty, neutrality and efficacy probably constitutes the main instrument for those who wish to contribute to the implementation of international humanitarian law".

Finally, *Prof. Igor P. Blishchenko,* director of the department of international law at Patrice Lumumba University in Moscow, analyses the obligations of states with regard to repression of breaches of the laws and customs of war, stressing the originality of the provisions for this in Protocol I.

In these contributions, apart from their analyses of legal provisions, we find a common concern to show the progress made in protecting the victims of conflicts and the drawing together of humanitarian law and the law of human rights, "the two crutches" upon which man depends to resist physical and moral suffering, in the words of *Mr. Karel Vasak*, former director of the Division of Human Rights and Peace at Unesco.

Humanitarian law is truly a human right, at all times and in all places, says Vasak, who wrote the conclusion. It is a law of conciliation, a law of charity and a law of justice. If, like many other branches of international law, there is no machinery for its enforcement, it is nevertheless endowed with a mechanism strongly encouraging the application of its rules, as proved by the work of the International Red Cross and, in particular, the right of humanitarian initiative of the ICRC.

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As Mr. Alexandre Hay, President of the ICRC, writes in his preface to this work, "we must recognize that dissemination is like a building, and the work done in the universities is assuredly its cornerstone".

This book is certainly one of the pillars of the structure to which Mr. Hay refers, and it goes far to meet the desire expressed for many years both at Unesco and within the International Red Cross that a truly international programme be developed for the teaching of international humanitarian law.[1]

As an instrument of fundamental importance for the teaching of international humanitarian law, the work is more than a series of detailed analyses of the specific provisions of that law. Going beyond these analyses and the study of the origins of the law at different times and in different countries, it encourages reflection on the nature and future of humanitarian law as well.

In this respect, it concerns all of us.

Jacques Meurant

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[1] On the initiative of the Swiss Government, the Eighteenth General Conference of Unesco in 1978 adopted a resolution inviting *"governements to intensify their efforts to ensure that the entire population is familiar with the principles of international humanitarian law, and to provide special instruction concerning the humanitarian conventions in universities and establishments of higher education, the medical profession and para-medical bodies, etc."* and instructed the Director General *"to prepare, in close collaboration with the International Committee of the Red Cross and the specialist institutes, a programme designed to intensify teaching and research in international humanitarian law"*.

Pursuant to this resolution, Unesco asked the Henry Dunant Institute to undertake the production of the present book, which was carried out in close co-operation with the ICRC.

ADDRESSES OF NATIONAL SOCIETIES

AFGHANISTAN (Democratic Republic of) — Afghan Red Crescent Society, Puli Hartal, *Kabul.*

ALBANIA (Socialist People's Republic of) — Albanian Red Cross, 35, Rruga e Barrikadavet, *Tirana.*

ALGERIA (People's Democratic Republic of) — Algerian Red Crescent, 15 bis, Boulevard Mohamed V, *Algiers.*

ARGENTINA — The Argentine Red Cross, H. Yrigoyen 2068, *1089 Buenos Aires.*

AUSTRALIA — Australian Red Cross Society, 206 Clarendon Street, *East Melbourne 3002.*

AUSTRIA — Austrian Red Cross, 3 Gusshausstrasse, Postfach 39, A-1041, *Vienna 4.*

BAHAMAS — The Bahamas Red Cross Society, P.O. Box N-8331, *Nassau.*

BAHRAIN — Bahrain Red Crescent Society, P.O. Box 882, *Manama.*

BANGLADESH — Bangladesh Red Cross Society, 684-686, Bara Magh Bazar, Dhaka-17, G.P.O. Box No. 579, *Dhaka.*

BARBADOS — The Barbados Red Cross Society, Red Cross House, Jemmotts Lane, *Bridgetown.*

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Printed by *Journal de Genève,* Geneva